

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

UNITED STATES OF AMERICA,  Plaintiff,  vs.  SM ENERGY CO.,  Defendant.	MJ-12-33-BLG-CSO    JUDGMENT AND SENTENCE
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Defendant SM Energy Co. (“SM”), with counsel and appearing through Gregory E. Schrab (“Schrab”),<sup>1</sup> its authorized representative, appeared before the Court on December 12, 2012, to enter pleas to the

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<sup>1</sup>Schrab is SM’s Corporate environmental health and safety manager. He and SM counsel Gregory E. Goldberg represented to the Court that Schrab is SM’s authorized representative for purposes of these proceedings. Assistant U.S. Attorney Robert S. Anderson, appearing on behalf of the United States, agreed that Schrab is SM’s authorized representative and agreed to proceed with Schrab acting in that capacity.

charges against it. The Court advised Schrab of the charges against SM, SM's rights relative to the charge, and the possible penalties. Schrab stated that he understood the charges against SM, and he entered pleas of guilty to each of the three charges against SM of Unlawful Take of Migratory Birds (Counts I, II, and III) in violation of 16 U.S.C. §§ 703, 707(a) as set forth in the Information. *DKT 1*. The Court accepted Schrab's guilty pleas made on behalf of SM. Therefore,

**IT IS ORDERED:**

1. SM is sentenced to pay immediately a \$50 special assessment for each count for a total of \$150 made payable to:

Clerk of Court  
United States District Court  
316 N. 26<sup>th</sup> Street, Room 5405  
Billings, Montana 59101

2. SM is further sentenced to pay a fine of \$7,500 for each count for a total of \$22,500 made payable to the Clerk of Court. The Clerk of Court shall then direct the fine payment of \$22,500, for wetlands conservation work in Montana, to:

U.S. Fish & Wildlife Service  
North American Wetlands Conservation Fund  
Cost Accounting Section  
P.O. Box 272065  
Denver, CO 80227-9060

3. SM is further sentenced to a term of 12 months probation  
with the following specific conditions imposed in addition to  
the standard conditions:

- (a) SM must perform community service by immediately  
paying \$7,500 to the Clerk of Court. The Clerk of  
Court shall then direct this payment to the following  
entity to be used in projects designed to enhance  
migratory bird habitat in Montana, Wyoming, and  
Nebraska:

National Fish and Wildlife Foundation  
1133 Fifteenth Street, N.W.  
Suite 1100  
Washington, DC 20005

- (b) During the period of probation, SM must continue to  
implement the Environmental Compliance Plan  
("ECP") (*DKT 4-1*), filed as an addendum to the  
parties' Plea Agreement. SM must meet at least once

with the U.S. Fish & Wildlife Service to discuss SM's progress in implementing the ECP, and to address any issues or problems or amendments necessary to ensure the ECP's effectiveness.

- (c) SM must submit two written reports to the Court, through the U.S. Probation Office, and to the U.S. Fish & Wildlife Service concerning the progress it has made implementing the ECP. One report must be submitted on June 1, 2013. The second report must be submitted on December 1, 2013.

SM is advised that, to the extent not precluded by paragraph 22 of the Plea Agreement (*DKT 2 at 16*), it has a right to appeal this Judgment, and the sentence imposed by this Judgment, within 14 days of its entry, pursuant to Fed. R. Crim. P. 58(g)(2). To appeal, SM must file a notice of appeal with the Clerk of Court at 2601 2<sup>nd</sup> Ave. N., Billings, Montana 59101. The notice of appeal must specify the judgment being appealed, and SM must serve a copy of the notice of appeal on the attorney for the government.

DATED this 13th day of December, 2012.

/s/ Carolyn S. Ostby  
United States Magistrate Judge